



State of Ohio Environmental Protection Agency

Southeast District Office

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Ted Strickland, Governor
Lee Fisher, Lieutenant Governor
Chris Korleski, Director

July 30, 2007

Re: Belmont County
Ohio Valley Coal Co.
01L00046*DD
Notice of Violation (NOV)
Correspondence (IWW)

Mr. J.R. Forrelli
Ohio Valley Coal Company
56854 Pleasant Ridge Road
Alledonia, Ohio 43902

Dear Mr. Forrelli:

On July 10, 2007, Ohio EPA Emergency Response On-Scene Coordinator (OSC) Michael Sherron responded to Ohio Valley Coal Co. (OVCC) mine #6 site in response to a complaint. The complaint alleged that Captina Creek had been turned black following a discharge from your company's slurry impoundment. OVCC did not report this discharge to Ohio EPA.

OSC Sherron made contact with officials from the Belmont County Emergency Management Agency (EMA) and ODNR Division of Mineral Resources Management. Mr. Don Meadows, OVCC Mine Foreman, explained to OSC Sherron that the ten-inch pipes located between the slurry impoundment and the decant structure were removed earlier in the afternoon. Even though the pool had been lowered in anticipation of this work, an uncontrolled discharge occurred. According to the description provided by Mr. Meadows, this high velocity discharge created a high turbidity condition in Perkins Run and Captina Creek.

OSC Sherron observed that a pool in Perkins Run immediately downstream of outfall 001 was discolored and the bottom of the pool was not visible at the time of the inspection. These observations are consistent with those of the complainant of the conditions observed in Captina Creek.

Based on this information, Ohio EPA has determined that OVCC discharged materials from outfall 001 at mine #6 that caused violations of NPDES permit 01L00046*DD and Ohio Administrative Code (OAC) Section 3745-1-04(A) and (C). Specific instances of non-compliance are:

1. The discharge contained substances that settled to form objectionable sludge deposits in Perkins Run, which is prohibited by Part 3, Section 2A of the NPDES permit and OAC 3745-1-04(A);

2. The discharge altered the natural color of Perkins Run, creating a nuisance, which is prohibited by Part 3, Section 2C of the NPDES permit and OAC 3745-1-04(C); and
3. OVCC failed to report the discharge in accordance with Part 3, Section 12 of the NPDES permit.

Violations of the NPDES permit are subject to a fine up to \$10,000 per day per violation.

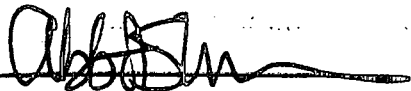
Ohio Valley Coal Corp. has a history of this type of discharge in violation of the NPDES permit.

- On January 2, 2006, ODNR Division of Wildlife documented that OVCC discharged materials that altered the natural color of and deposited sludge in Captina Creek.
- On July 31- August 1, 2004, Ohio EPA documented that OVCC discharged slurry from outfall 001 into Captina Creek, discoloring the creek and causing deposits of sludge.
- On April 22, 2000, Ohio EPA documented discharges from OVCC's outfall 010 that caused discoloring of and deposited sludge in Captina Creek.
- Other prior violations of this nature occurred on June 17, 2000, December 14, and July 7, 1999.

OVCC shall submit, within 10 days of receipt of this notice of violation, a written description of the events of July 10, 2007, including the results of any samples collected, monitoring data, and an explanation of why OVCC failed to report this release. The letter should also include details of proposed actions your company will be taking to ensure compliance with the terms and conditions of the NPDES permit.

If you have any questions, please contact me at (740) 380-5284 at your convenience.

Sincerely,



Ms. Abbot Stevenson
Environmental Engineer
Permits and Enforcement Section
Division of Surface Water

AS/dh